1953 **File No.** S. Kanara 1

5

Legal **DEPARTMENT**

E **BRANCH**

**Subject:** Suits... Kanara

C.S. No. 17 of 1952

Nagesh Tuggayya Shet ------ Plff.

V/S

The State of Bombay ------ Deft

Re:- For a declaration that he is not responsible to make good the loss caused to the defendant by defalcation of 36 bags of rice made by Late Shri T.L. Shetty for whom the plff had stood as a surety, in 1943, and for the refund of the amount of Rs 500/- recovered from him with interest etc.

P.L.7
K.E.

**File No.** E Kanara 1/53

Std. Scott. Slip 24-B

1/53

From:

The District Government Pleader, Kanara.

To

The Remembrancer of Legal Affairs, Bombay.

No. 286 of 1952. Karwar, dated 27th June 1952.

Subject:- O.S.No.17-1952 filed by Nagesh Duggayya Shet against the State and the Collector of Kanara.

Sir,

This case had been fixed for written statement on 23-6-1952. More than 4 months have lapsed since the service of the summons. This case is now fixed on 9-8-52 for filing written statement. Hence this matter may kindly be expedited.

GOVERNMENT
LEGAL DEPARTMENT
File No. 12955
Sub No. 1/7/52
Branch

Yours faithfully,

District Govt.Pl.Kanara.

Sealed.

The D.G.P. Kamara reports that the C.S. No. 17 of 1952 is filed 4 months ago and he received no instructions up till now

The D.G.P. Kamara has not reported the suit in the monthly returns and hence no intimation was received by this office, of this Suit having been filed. The D.G.P. may be asked to state whether he has reported this suit to this office up till now. The C/Sh may also be reminded as we have no pps. of this suit.

Sor (MJ) JRK
1-7-52

Need on 8/7.

× No. 11353
dt 9-7-52

Encl -

9/7

No. 11244

Office of the
Remembrancer of Legal Affairs,
Bombay Castle(Bombay No.1), 11 July 1952.

Subject:- O.S.No.17-1952 filed by Nagesh Duggayya Shet against the State and the Collector of Kanara.

MEMORANDUM.

With reference to his letter No.286 dated the 27th June 1952 on the above subject, the District Government Pleader, Kanara is informed that the suit in question is not reported to this office up till now. The report of the Collector is also not received, by this office and it is therefore not possible to obtain the sanction to the defence of the suit.

The District Government Pleader is also requested to state why the above suit was not reported to this office in the monthly returns

for Remembrancer of Legal Affairs.

To

The District Government Pleader,
Kanara.

KML/5 — Submit for sign
A reminder to the Colls. may also be signed
7/7
7/7 Soh (ons)

From: The District Government Pleader, Kanara.

To

The Remembrancer of Legal Affairs, Bombay.

No. 328 of 1952. Karwar, dated 12th July 1952.

Sir,

With reference to the 2nd para of Your letter No.11244 dated 7th July 1952, I have the honour to inform you that I got the information of the filing of the suit from the Collector of Kanara by his letter of 10-4-1952. Hence this suit has been mentioned in the statement of April submitted on 16-5-1952 vide my letter No.217-1952. It has also been mentioned in the special statement of suits against Government vide my letter No.219/52. It has also been mentioned in the statement of May submitted on 12-6-1952 vide my letter No.260/1952.

Therefore there is no default on my part in reporting the existence of this pending suit whenever it was so necessary to do.

Yours faithfully,

District Government Pl. Kanara.

GOVERNMENT
14220
16/7/52
E

From:-

The District Government Pleader, Kanara.

To

The Collector of Kanara, Karwar.

No. 327 of 1952. Karwar, dated 12th July 1952.

Sir,

I am enclosing herewith copy of R.L.A's letter No.11244 dated 7th July 1952 regarding O.S.No.17-1952 filed by Nagesh Duggayya Shet against the State and the collector of Kanara. You had intimated filing of this suit on 10-4-1952. Copy of the plaint was not sent to me. As desired by you I had put-in my appearance and applied for an adjournment of this suit ~~by~~ for 2 months. Again I had applied for an adjournment on 23rd June 1952 More than 4 months have now lapsed since the service of the summons and I therefore thought that the papers were lying in the R.L.A's office. So I addressed my letter No.286/27-6-1952 to the R.L.A. requesting him to expedite the matter. The copy of the accompanying reply letter will show that the papers have not yet reached the R.L.A's office. I have therefore to request you to please look into the matter immediately and expedite sending the papers with the necessary report to the R.L.A. early. I have also to request you to enquire into the cause of the delay so as to avoid the repetition of such instances. Delay of 4 months even to send the papers to the R.L.A. in a pending suit ordinarily appears to be inexcusable and abnormal. The Civil Judges are reluctant to adjourn cases for filing written statements indefinitely for several months The High Court expects all suits to be decided before they become yearold. The present suit appears to have been filed in January last. It takes some time for production of documents and for other stages for the suit to reach the stage of hearing. If such abnormal delays are committed for filing written statements further difficulties are created at further stages and adjournments are refused as a rule in yearold cases. Thus practically proper conduct of the

case is endangered. Hence I request you to note this situation and to order that there should be no such abnormal delays in future.

Yours faithfully,

District Government Pl. Kanara.

Copy forwarded for information to the R.L.A.

17/7/52

Key P.

Submitted for information
The letter overleaf is addressed to the Collr.
Await Collr's report

16/7

Sdr (RL) 16-7

Letter

No. 4905/Estt/C.S.
Office of the Collector of Kanara
Karwar, 26th September, 1952.

To

The Remembrancer of Legal Affairs,
B O M B A Y.

Subject :- Original Suit No. 17/1952 filed by Shri Nagesh Duggayya Shet against the State of Bombay and Collector of Kanara.

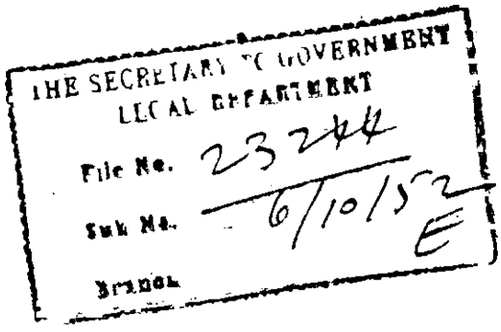
Reference: Your No. 11353 dated 9th July, 1952.

Sir,

The following report is submitted under Rule 118 of the Law Officers Rules :

| | |
|---|---|
| 1) No. of Suit | OS 17/1952 |
| 2) The date on which the suit was filed | 6-12-1951 |
| 3) Names of parties | Nagesh Duggayya Shet Agriculturist of Chappanmane Taluka - Siddapur. |
| | Vs. |
| | 1) State of Bombay |
| | 2) Collector of Kanara |
| 4) Value of the claim | 580-0-0 |
| 5) Date fixed for written statement | 4-11-1952. |

6) (i) Notice under Section 80 of Civil Procedure Code has not been issued before filing the Suit ( the plaint does not assert that such notice has been given)




(ii) a) Copy of the plaint in regional language accompanies.

b) Translation of the Plaint in English accompanies.

The plaintiff's case is that he was a surety to Shri T.L. Shetty and had passed a surety bond on 27-10-1943. This statement in paragraph 1 is correct. In para 2 of the plaint it is asserted that Shri T.L. Shetti was appointed as G.K. and that a fresh surety

bond was obtained from him for due performance of his duties as Godown Keeper. This is not correct. No fresh security bond had been -- taken from him regarding his duties as a -- godown keeper. This is because the surety bond passed by the plaintiff covered his duties as a Shanbhog as also any subsequent post that may be entrusted to him Vide translation of the surety bond marked X and the District Government Pleader's opinion marked H and J. In 1946 when Shri T.L. Shetti was in Supa he had been promoted as a Circle Inspector and a fresh Security Bond had been obtained according to which Shri G.N. Malshet and G.B. Sakardande of Supa had stood surety for him. Vide Collector's order marked C according to which the original order was passed against these sureties and the plaintiff. Then these two sureties put in their -- application marked E dated 6-6-1948. The matter was referred to District Government Pleader who gave his opinion marked F that the loss occasioned to Government by Shri T.L. Shetti was on 17th May, 1944 whereas these two surety bonds were dated 7th August, 1946 and therefore the District Government Pleader pointed out that these sureties were not -- liable. Accordingly the Collector exhonorated these two sureties by an order dated 13th -- July, 1948 marked G. Hence it is not correct to say that these two sureties were taken for the due discharge of duties as Godown Keeper.

Further it is asserted in plaint's para 2 that T.L. Shetti committed defalcation regarding 36 bags of rice the value of which

1321

was 1,107-11-0 by making a false debit entry without actual delivery. This is a fact. Further it is asserted by the - Plaintiff that on 15th ay, 1948 the Collector passed the order which is marked C after taking istrict Government Pleader's opinion. ut it is not correct to say that the other sureties mentioned in the order were the sureties for his due discharge of Godown Keeper's duties by T.L. Shetti.

In plaint para 3 it is asserted that the action was taken after the death of T.L. Shetti and that it was the duty of the -- Department concerned to take necessary action in the very life time of T.L. Shetti. In this connection I referred to the detailed report sent by the Collector to the Commissioner, S.D. on 25th November 1947 marked B. T.L. Shetty expired on 21-7-1947. Thereafter attemps were made to recover the money from the heirs of the deceased Shanbhog. The reply received from his son Shripad is marked D. The District Government Pleader in his opinion marked H dated 7th May, 1948 has discussed the legal position and given his opinion that the surety can be proceeded against even after the death of the Godown Keeper. Therefore the allegations made in para 3 of the Plaint cannot help the Plaintiff. It is true that there has been some delay. But it will not in any way go to discharge the liability of the plaintiff.

In para 4 it is asserted that the deceased had left Provident Fund of R 1,100/- and that the amount ought to have been attached The Government Pleader in his opinion marked J had also suggested this remedy. Then the

the Collector brought to his notice, Section 6(a) of the Provident Fund Act was not -- applicable to this case and the amount was not liable to be attached vide Collector's letter dated 25-8-1948 marked F and the endorsement of the District Government Pleader below it.

The whole sum of Rs. 1,107-11-0 has been recovered out of which Rs. 200/- were recovered from the Plaintiff on 7-12-48 ( Vide letter marked C ) and Rs. 100/- on 17-1-49 Rs.150/- on 15-2-49 ( vide letter No. P ) and Rs. 50/- on 8-4-49 ( letter marked Q ). The balance was recovered from the heirs of the deceased Godown Keeper vide letter dated 24-4-49 -- marked Q. Thus it will be clear that the Surety Bond was executed against the Plaintiff only to the extent of the amount covered by the surety bond and no further. The balance was recovered from the heir. There was no negligence on the part of the Authorities in recovering the amount. The Department was not bound to intimate the defalcations immediately after they were disclosed. A detailed enquiry through the Prant Officer Sirsi Division was held and the Collector had to pass orders marked C after proper enquiry. Immediate intimation had been given to the Plaintiff after the orders were passed.

In para 5 plaintiff asserts that on 14-7-48 Notice had been given to the defendant No. 2 complaining against the order of 15-5-48. This was not a notice issued under Section 80. Copy of this notice is marked I. It was a submission made by the Plaintiff through his pleader asserting that the --

1745

order was illegal. This letter was sent to the District Government Pleader for his -- opinion on 12-8-48 and his opinion marked J dated 20-8-48 may be perused. He has -- observed that this was not a Notice under Section 80. The reply given to Shri N.G. Shanbhag is marked L. and the reply given to Plaintiff dated 18-11-48 is marked M in reply to his application marked N. There is no Notice issued to Government. The suit is for refund of amount recovered from the Plaintiff. These recoveries were made after the date of this letter. The plaintiff has mentioned these dates of recoveries in plaint's para 6 as dates of cause of action. There has been no Notice issued under Section 80 based on the reliefs now claimed and of the cause of action. Hence the Suit is defective.

The Plaintiff seeks a declaration that the order was passed by the Collector was illegal. This order is dated 15-5-1948 and the suit has not been filed within 3 years from this date. He cannot therefore challenge this order. While asking for the declaration he perhaps wants that the orders should be set aside. So long as that order stands the recovery is legal and justified. The plaintiff was to sue --- Government within 1 year from 15-5-48 to set aside this order. Hence the suit is time barred.

c) The circumstances which led to the suit are mentioned in the Plaint and in the Collector's report marked B. It is proposed to defend the suit on the following grounds:

1) No notice under Section 80 was

A 27

ever given and therefore the suit is barred and not maintainable

2) The Plaint is time barred as it was not filed within one year from 15-5-48.

3) The order is not illegal simply because no steps were taken during the life time of T.L. Shetti.

4) It is not proved that such security bond had been taken from T.L. Shetti for his work as G.K. The bond taken at Supa was subsequent to the defalcation.

5) The Provident Fund amount could not be attached and yet the balance has been recovered from the heirs who paid it. The Plaintiff cannot make it a grievance that the Provident Fund amount was not attached.

6) The plaint does not challenge the defalcation made by T.L. Shetti. Documents to prove the defalcation are not submitted. That question cannot arise in the Suit.

7) The suit is for refund of the amount already paid. It appears that such a Suit is not maintainable. The amount was legally recovered and hence cannot be refunded.

8) Plaintiff also claims a declaration that the order of Collector dated 15.5.48 was illegal. It is submitted that the order is perfectly legal. ~~The copies~~

The copies of all relevant documents are submitted. The copy of the plaint had not been supplied by the Civil Court in time and hence the delay in submitting these papers. The Case Papers (pages 1 to 226) are enclosed.

O.C. Signed by the Colr. LR.

for Collector of Kanara.

17/25

In the Court of the Civil Judge, Senior Division, Karwar.

O.S.No.17 of 1952

Nagesh Duggayya Shetty, Age 40, Occupation Tenant, of Chapparmane Taluka, Siddapur. ) Plaintiff

Vs.

(1) Government of Bombay )
(2) Collector of Kanara ) Defendants

Suit for Rs 580-0-0

The Plaintiff sheweth as follows :-

(1) In the year 1943 Shri Timmappa Laxman Shetty of Phatkal was appointed as the Shanbhog of Sannakoppa Village in Siddapur Taluka. As Shanbhog, he was directed to give security for 500/- with one surety for the proper discharge of his duties and to make good the loss sustained by Government, if any in case of default and accordingly the Plaintiff stood surety and executed a Security Bond on 27th October, 1943.

(2) Timmappa Laxman Shetti was subsequently appointed as Godown Keeper Siddapur from his Shanbhogi post. On his appointment as Godown Keeper, a fresh security bond was got executed from different persons for the proper discharge of the duties as Godown Keeper. Subsequently on intimation from the District Superintendent of Police Kanara under his letter No. 503/6884 of 1948 dated 30-4-1948 that the said Timmappa Laxman Shetty when working as Godown Keeper debited 36 bags of rice worth Rs 1,107-11-0 in the name of Itgi Fair Price Shop without actually issuing the bags to the Shop, the Defendant No. 2 on obtaining the advice of the District Government Pleader Kanara passed orders for the recovery of the amount from the Plaintiff under his No. 4905/363(Accounts) dated 15th May,1948.

The Plaintiff was never informed of this at any time before. In the order passed by the Defendant No. 2 dated 15-5-48 it has been -- stated that the heirs of the deceased Timmappa Laxman Shetty and his sureties in his capacity as Godown Keeper are also responsible to make good the loss caused to Government including the Plaintiff.

(3) It is seen from the papers that the Defendant No. 2 came to know of the case as a result of the audit of the accounts after the death of the said Timmappa Laxman Shetty. It was the duty of the higher authorities to audit the accounts of the F.P. Shop Itgi and the godown from time to time promptly. If the authorities concerned had done that and had taken prompt steps for the auditing of the accounts from time to time the misappropriation on the part of the said Timmappa Laxman Shetty would have come to light then and there and it would have been possible for the -- defendants Nos. 1 and 2 to recover the amount of loss from him only. Even if the amount -- was recovered from the Plaintiff who stood surety it would have been possible for the Plaintiff to recover the said amount from the said Timmappa Shetty. The Plaintiff is not responsible to make good the loss caused to Government as a result of the -- alleged misappropriation of 36 bags of rice by Timmappa Shetty since the auditing staff appointed by Defendant No. 2 have failed to carry out their duties satisfactorily.

(4) A sum of Rs. 1,100-0-0 being the collections of G.P. Fund contribution were with Defendant No. 1. This amount was

disbursed to the heirs of the deceased Timmappa Shetty even though they were aware of the alleged misappropriation.

The Defendants Nos. 1 and 2 are aware that the heirs of the deceased are responsible to make good the loss caused to Government by the misappropriation. It is not possible for the Plaintiff to effect recovery of the -- disbursed amount from the heirs of the -- deceased. By these actions of the -- defendants the Plaintiff is not in a position to proceed against the heirs of the deceased. Hence the Plaintiff is not responsible to credit the amount of loss caused to Defendant No. 1 as directed by the Defendant No. 2 under his Order dated 15-5-1948. Even if it is held that he is responsible the responsibility stands ceased by the actions of the defendants.

(5) On 14-7-1948, the Plaintiff had issued a notice to the defendant No. 2 on behalf of defendants Nos. 1 and 2 to withdraw the orders passed by Defendant No. 2 against the Plaintiff dated 15-5-48 mentioning therein all the facts stated above. Even then the Defendant No. 2 encouraged recovery of the amount from the plaintiff. The --. Plaintiff being forced by Defendant No. 2 credited ₹ 200/- on 7-12-48, 100/- on 17-1-49, ₹ 150/- on 15-2-49 and ₹ 50/- on 8-4-49 in all ₹ 500/- into the Treasury. The Defendants have no right to recover this amount from the Plaintiff. Therefore the plaintiff has sued the Defendants for the recovery of the amount already ~~given~~ credited

--

22 35

together with its interest at 6,[illegible]er annum from the date of recovery of the amount

(6) The cause of action of this Suit rose on 7-12-48, 17-1-49, 15-2-49 and 8-4-49 at Karwar within the jurisdiction of Karwar Court.

(7) This court has jurisdiction to try the plaint.

(8) The claim of this plaint is Rs 580/- including Court fee and Pleader's fees etc.

(9) Hence the Plaintiff requests the Court to decide that the Plaintiff is not -- responsible to make good the loss caused by the misappropriation by Timmappa Laxman Shetty on 17-5-1944 and to pass orders for the refund of Rs 500/- credited in instalments of Rs 200/- on 7-12-1948, Rs 100/- on 17-1-49, Rs 150/- on 15-2-49 and finally Rs 50/- on 8-4-49 together with interest of Rs 80/- at Rs 6,[illegible] per annum and interest for the future periods and cost of the suit for the reasons that (1) the recovery order was passed by defendant No. 2 for the loss of Rs 1,107-11-0 caused to Defendant No. 1 by the misappropriation of 36 bags of rice to be delivered to Itgi Fair Price Shop by late Shri Timmappa Laxman Shetty on 17-5-44 under his No. 4905/363 Accounts dated 15-5-1948 without -- informing the plaintiff (2) The defendants were responsible by their neglect and indifference to detect the fraud immediately after it had happened and thereby destroyed the opportunity to the Plaintiff Surety to make good the recovery from Timmappa Shetty himself during his life time (2) further even though their heirs were bound to make good the loss and this fact was known to the defendants all along they are itt-

29 37

permitted the disburse ent of the accumulations of the G.P. Fund amount of Shri Timmappa Chetty to his heirs without any ~~fore~~Pre thought towards ~~its~~ his appropriation to Government for loss caused by Timmappa Chetty.

From:-

The District Government Pleader, Kanara.

To

The ~~District~~ Collector of Kanara.

No. 547 of 1952. Karwar. dated 28th November 1952.

Sir,

O.S.No.17-1952 filed by Nagesh Dugappa against the Bombay and the Collector of Kanara has been fixed for filing written statement on 19-12-1952. This suit had been filed more than 6 months ago The suit summons was served on you about 5 months ago. I have received a bundle of papers from R.L.A. for drafting W.S. I regret to bring to your notice that none of the relevant papers have yet been collected nor were they sent to the R.L.A. They will have to be traced immediately and sent to me before 15-12-1952.

The following papers will have to be traced :

1. The most important document in this case is the surety bond passed by the plff on 27-10-1943. Page 61 of the papers sent herewith shows that this document was called for from the mamlatdar of Siddapur. This document had been sent to me when asking for my opinion. But it appears from page 173 and other correspondence that all the papers had been submitted to the Government. If they have not been received back they will have to be called for and sent to me early. If they are in your office or with the mamlatdar of Siddapur these papers will have to be traced.
2. All documents referred to in the letter dated 13-7-1948 of the mamlatdar of Siddapur at page 95.
3. Papers of enquiry held by the Prant Officer Sirsi Division.
4. Papers of investigation held by the P.S.I. Food Control a list of which appears at page 29 of the proceedings.
5. Order No.23 dated 17-5-1944 referred to in the report at page 1 as also all other documents referred

55

to in this report including the permit issued to the Itagi Fair Price Shop and the Issue Register in which late T.L.Shet made the false entry regardin the issue of 36 bags of rice.

6. Note book maintained in the hand writing of T.L.Shet son referred to at page 27 of the proceedings.

All the papers received from the R.L.A. have been sent herewith for reference. They may please be returned before 15-12-1952.

The usual and proper course is to trace the original papers and all the relevant documents before submitting the report to the R.L.A. for sanctioning the Lines of Defence. This may please be noted for future guidance.

Yours faithfully,

Dist.Govt.Pl.Kanara.

No. 20583/E

Legal Department,
Bombay Castle(Bombay No.1), 8th December 1952.

Subject:- Kanara C.S. No. 17/1952.

Memorandum:

With reference to his letter No. 548, dated the 28th November 1952 forwarding a draft of the Written Statement for approval, the District Government Pleader, Kanara is informed that the draft is in order and he may file the Written Statement accordingly.

2. The draft is returned with this as desired by him but he is requested to send a copy thereof for record of this office.

c/c

Solicitor to Government.

To

The District Government Pleader,
Kanara.

In the Court of the Civil Judge, S.Dn.,Karwar. 37/61

O.S.No.17-1952.

Nagesh Duggayya ....Plaintiff.

Vs.

The State & another. Defts.

Written Statement on behalf of the defts:

1. Plff has not given a proper notice of suit as required by section 80 C.P.C. Letter dated 14-7-1948 referred to in plaint para 5 was not a notice issued under sec.80. It was simply a letter addressed by Shri N.G.Shanbhag as pleader on behalf of the plff to deft No.2 asserting that the order passed against plff under No.4905/363( Accounts) dated 15-5-1948 was illegal and therefore it should be withdrawn. In reply to this letter deft No.2 informed Shri Shanbhag that his request could not be considered. The plff has prayed for a declaration against both defts that he is not responsible for the loss caused to deft No.1 by the misappropriation committed by deceased Godown keeper T.L.Shet and also for refund of Rs.500/- recovered from him by instalments on 7-12-1948, 17-1-1949,5-2-1949 and 8-4-1949. The plff has also claimed interest of Rs.80/- on the sums recovered from him. He has further claimed future interest. There was no notice issued to either of the defendants with respect to these reliefs now claimed by him. Out of these claims the cause of action for all the claims excepting the declaration arose after the alleged notice dated 14-7-1948. In the said letter there was nothing said about the intention to file a suit against either of the defendants and the plff is wrong in asserting that this letter was a notice as required by law. Hence this suit is not maintainable for want of proper notice under section 80 C.P.C.

2. The alleged notice refered to the original order passed by deft No.2 on 15-5-1948. Whereas deft No.2 modified this order on 13-7-1948 holding that plff alone was responsible to the extent of Rs.500/- after holding that the other 2 sureties were not liable as the misappropriation took place before the date of that surety bond. Thus the alleged notice is not in confirmity with the requirements of law

In the Court of the Civil Judge, S.Dn.,Karwar. 37-61

O.S.No.17-1952.

Nsgesh Duggayya ....Plaintiff.

Vs.

The State & another. Defts.

Written Statement on behalf of the defts:

1. Plff has not given a proper notice of suit as required by section 80 C.P.C. Letter dated 14-7-1948 referred to in plaint para 5 was not a notice issued under sec.80. It was simply a letter addressed by Shri N.G.Shanbhag as pleader on behalf of the plff to deft No.2 asserting that the order passed against plff under No.4905/363( Accounts) dated 15-5-1948 was illegal and therefore it should be withdrawn. In reply to this letter deft No.2 informed Shri Shanbhag that his request could not be considered. The plff has prayed for a declaration against both defts that he is not responsible for the loss caused to deft No.1 by the misappropriation committed by deceased Godown keeper T.L.Shet and also for refund of Rs.500/- recovered from him by instalments on 7-12-1948, 17-1-1949,5-2-1949 and 8-4-1949. The plff has also claimed interest of Rs.80/- on the sums recovered from him. He has further claimed future interest. There was no notice issued to either of the defendants with respect to these reliefs now claimed by him. Out of these claims the cause of action for all the claims excepting the declaration arose after the alleged notice dated 14-7-1948. In the said letter there was nothing said about the intention to file a suit against either of the defendants and the plff is wrong in asserting that this letter was a notice as required by law. Hence this suit is not maintainable for want of proper notice under section 80 C.P.C.

2. The alleged notice refered to the original order passed by deft No.2 on 15-5-1948. Whereas deft No.2 modified this order on 13-7-1948 holding that plff alone was responsible to the extent of Rs.500/- ~~xx~~ after holding that the other 2 sureties were not liable as the misappropriation took place before the date of that surety bond. Thus the alleged notice is not in confirmity with the requirements of law

as the amount recovered from the plaintiff was in pursuance of the order dated 13-7-1948.

3. This suit is not tenable as the claim is based on the original order passed on 15-5-1948 which had been subsequently modified on 13-7-1948. The recovery of the sums from the plff of which he claims refund was in persuance of the latter order dated 13-7-1948. So also the plaintiff is wrong in asking for a declaration only as regards the former order as it was merged in the latter order. The plff has not sought for any relief based on the latter order dated 13-7-1948. Hence this suit is not maintainable.

4. This ~~is~~ suit is barred by the provisions of the Revenue Jurisdiction Act. This Court has no jurisdiction to try the legality or otherwise of the order passed by the Collector or to order refund of sums recovered under the L.R.Code.

5. It is true that deceased T.L.Shet had been appointed as a Shanbhog in 1943 when plff ~~took~~ stood surety for him and passed a surety bond in ~~the~~ the prescribed form. Though it was executed when T.L.Shet was a Shanbhog it was not confined to his duties only as a Shanbhog. This surety bond was passed by plff as a surety of T.L.Shet for the due discharge of the trust of said office or of any office to which he might thereafter be appointed. Thus it covered ~~any~~ all liabilities incurred by T.L.Shet even when holding any other post entrusted to him. It amounted to a continuing gurantee under section 129 of the Indian Contract Act. Therefore the surety bond did not terminate immediately after the deceased was entrusted with a any post other than that of a Shanbhog. The Godown Keeper's grade was that of Shanbhog and hence there could be no change relieving the plff from his surety-ship. In fact no fresh security bond had been taken from T.L.Shet.

6. The plff was well-aware of the fact that T.L.Shet was entrusted with Godown Keeper's post. Yet he did not revoke his surety bond ~~kmk~~. Hence in view of his

acquiescense he is estopped from pleading that surety bond was confined only to the Shanbhog's post.

7. There was no higher responsibility incurred on account of the deceased being appointed as Godown keeper. The plff's responsibility was fixed to the extent of Rs.500/-. As a Shanbhog T.L.Shet had to handle large amount of cash recovered in the form of Land Revenue, Tagavi Loan amounts, Rent decretal sums, Income tax or other Government dues recovered under the L.R.Code. His responsibility was in no way enhanced on his appointment as go-down-keeper. Therefore the surety-bond passed by plaintiff terminated only with the death of T.L.Shet. At the time of the misappropriation plff's responsibility as a surety had not terminated. The onus lies on plff to prove that the surety bond had ceased to have any legal effect as asserted by him.

8. T.L.Shet was acting as Godown Keeper of Siddapur for a short period from 29-3-1944 to 18-8-1944. It is not true, as alleged in plaint para 2 that he had furnished fresh security bond to cover the responsibilities entrusted to him as G.K. It was in 1946 that he was promoted as a Circle Officer. Hence a fresh security bond was taken from him on or about 7-8-1946. Shri G.N.Malshet and G.B. Sakardande stood as sureties for him under this bond. This bond was in addition to the surety bond passed by plff. It did not supersede or cancel the plff's suretyship

9. When late T.L.Shet was working as G.K. of Siddapur the Itagi Fair Price Shop credited to Govt. Rs.1107-11-0 on 17-5-1944 as price of 36 bags of rice indented for by it. An order was issued authorising the Itagi Shop to obtain 36 bags of rice from the Siddapur ~~shop~~ Go-down. But it appears that the Itagi Fair Price Shop actually got the delivery from the Itagi Godown on the strength of the permit issued to it. This was perhaps done as it was more convenient to take delivery at Itagi only. A note was made .

67

on this order to that effect. Yet late T.L.Shet debitted 36 bags of rice in the stock register without actually delivering the stock to the Itagi Fair Price Shop or obtaining any receipt from this shop. He must have made this entry on the strength of the original order which required the Itagi Fair Price Shop to receive the stock from the Siddapur Godown. There was thus a false debit in the Issue Register of Siddapur made with a view to misappropriate of that stock. When the work of rewriting the account in prescribed forms was started this false debit entry came to light as there was a deficit of 36 bags of rice. Late T.L.Shet refused to do this rewriting work of the period during which he had worked as a godown keeper and hence the work had to be got done by others. This fact was reported to deft No.2 by Siddapur mamlatdar in November 1945. The failure to detect this misappropriation is not due to the negligence of the defts nor can the plaintiff escaped from his responsibility on the ground of such bonafide delay or negligence etc., asserted in plaint para 3. All the allegations made in plaint para 3 are denied.

10. The deft No.2 in his order dated 19-12-1945 ordered further enquiry into the matter and called for a report but late T.L.Shet failed to offer his explanation even though sufficient time was given to him. He expired on 21-7-1947.

11. Prant Officer , Sirsi Division had held an enquiry and come to the conclusion that T.L.Shet was responsible for this misappropriation. Thereafter followed investigation by the P.S.I. Food Control who also came to the same conclusion. But no prosecution could be launched as T.L.Shet had died in the meanwhile. The deft No.2 passed the order dated 15-5-1948 after obtaining legal advise and also on the basis of two independent enquiries. He acted in good faith and passed the order in pursuance of his legitimate duties. He cannot be held responsible

4.5 Ex 2

for passing such an order.

12. An attempt had been made to see if there were any amounts due to late T.L.Shet from Government with a view to attach the same. Rs.45-10-0 due as arrears of pay were attached and part of the balance due to Govt under above orders has been recovered from the heirs of late T.L.Shet. The General Provident Fund amount could not be attached in view of the provisions contained in section 3(1) of the General Provident Fund Act.

13. The sureties Malshet and Sakardande petitioned to deft No.2 pointing out the fact that they had stood sureties after the date of the alleged misappropriation and therefore they could not be held responsible. When this fact came to light the deft No.2 had to revise his first order on 13-7-1948 exhonerating these 2 sureties. Thereafter the recovery process was proceeded with under the order dated 13-7-1948.

14. There is no rule or any provision of law that plff should have been given any opportunity to atter the enquiry held by the Prant Officer or the investigation by the police. The plff was fully aware of such proceedings but he never sought any such opportunity.Moreover plff was given an opportunity when he applied on 14-7-1948 through his pleader and after hearing him the order was reaffirmed and this fact was intimated to him. The recovery process was started after this.

15. There was no act or omission on the part of the defts entitling plff to claim discharge of his liabilit as a surety nor has the plff's remedy been impaired in any way by the defts. All the allegations made by the plff are denied.

16. Even assuming that there was any act of negligence or of omission on the part of the deft to take necessary action against the deceased, the defts have acted in good faith.Plff is not entitled to claim discharge of his liability on any grounds urged by him.It is for him to

42/41

justify and prove any such grounds entitling him to claim any discharge.

17. The defts claim benefit of section 137 of the Indian Contract Act as mere forbearance to sue the principal debtor cannot absolve the surety from his liability.

18. The orders passed by deft No.2 mentioned above are perfectly legal and valid. The recovery process under the order dated 13-7-1948 was justified in law. The plff is not entitled to claim refund of the amount recovered from him to the extent of his liability.

19. The plff is not entitled to claim any interest on such sums paid by him.

20. The suit against deft No.2 is not maintainable as he has acted in due discharge of his public duties and in good faith. Similarly the suit is not maintainable against deft No.1 for the recovery of thesesums.

No. 18052/E.

Office of the
Remembrancer of Legal Affairs,
Bombay Castle(Bombay No.1), 31st. Oct. 1952.

Subject:- Kanara Civil
Suit No. 17 of 1952.

MEMORANDUM.

The District Government Pleader, Kanara, Karwar is informed that the defence of the suit noted above is sanctioned and he is requested to conduct the same on the lines of the brief, a typed copy of which is sent herewith in advance

Papers of the case in one file received from the Collector accompany.

O/C.

for Remembrancer of Legal Affairs.

To

The District Government Pleader, Kanara, Karwar

KML/29.8

Submitted for signature
MH
31/10/52

The appeal copy of the brief is kept below
Jamedar
31/X

Sd/- (illegible)

A/ *Suits:*

Kanara.

For a declaration that he is not responsible to make good the loss caused to the defendant by defalcation of 36 bags of rice made by late Shri T. L. Shetty for whom the plaintiff had stood as a surety in 1943, and for refund of the amount of Rs. 500 recovered from him with interest etc. IA

8 77

GOVERNMENT OF BOMBAY

LEGAL DEPARTMENT.

Resolution No. 2419/E.

Bombay Castle, 5th February 1953.

Letter from the Collector of Kanara, No. 4905/Estt./C.S., dated the 26th September 1952—Forwarding the papers in the suit noted in the margin and requesting sanction to its defence.

B/ In the Court of the Civil Judge (Senior Division), Karwar.
Civil Suit No. 17 of 1952.

Nagesh Duggayya Shet ... ... ... Plaintiff;
*versus*
The State of Bombay — ... ... Defendant.

Memorandum to the District Government Pleader, Kanara, Karwar, No. 18052/E, dated the 31st October 1952—Forwarding a copy of the brief with its accompaniments in advance.

RESOLUTION.—Sanction is accorded to the defence of the suit on the lines of the accompanying brief.

By order and in the name of
the Governor of Bombay,

Original R T Lad

P. M. LAD,
Secretary to Government.

Issued 6/1/6/53.

A Leg H 303—1

To

*The Civil Supplies Department,
*The Revenue Department,
*The Collector of Kanara,
The District Government Pleader, Kanara, Karwar (with two copies of the brief).

*With a copy of the brief.

No. of 1953.

Copy forwarded for information and guidance to

Submitted after issue
& File in S. Kanara/53
(new)

Filing orders are contrary to the noting at B vide slip R
Pl. confirm
DM. 17/6

Result of the suit will be recorded when ~~three copies~~ of the judgment & decree are received. These p/as. may be filed.
NB 19.6.53

13/6/53
Submitted. NB 13.6.53.

53 74-

KANARA CIVIL SUIT No. 17 OF 1952.

*Chronological Statement of Facts.*

Plaintiff has filed this suit against the State of Bombay and the Collector of Kanara (1) for a declaration that he is not responsible to make good the loss caused to the defendant by defalcation of 36 bags of rice made by late Shri T. L. Shetty for whom the plaintiff had stood as a surety in 1943, and (2) for refund of the amount of Rs. 500 recovered from him with interest. etc.

2. It appears that late Shri Timappa Laxman Shetty was appointed as a Shanbhog (Village Kulakarni) of Sannakoppa in Siddapur Taluka. Plaintiff Shri N. D. Shetty stood a surety to the late Shri Timappa L. Shetty. The Collector has not sent an English translation of the Kannada bond. The District Government Pleader, is requested to see the original bond with a view to find out its exact terms. The bond seems to have been executed on 27th October 1943. It appears from the words of the bond that it covered not only all liabilities arising out of the duties of late Shri T. L. Shetty as Shanbhog, but it was also applicable to the liabilities arising from his subsequent appointment to any other post. It appears that some time in 1944 (The District Government Pleader is requested to ascertain from the Collector the exact date) late Shri T. L. Shetty was appointed as godown-keeper at Siddapur. In 1946 late Shri T. L. Shetty appears to have been promoted as a Circle Officer and a fresh security bond was taken from him on or about 7th August, 1946. Shri G. N. Malshet and Shri G. B. Sakhardande stood him as sureties under this bond. The plaintiff had not revoked his bond executed in 1943, nor was it cancelled. It also continued in operation.

3. Late Shri T. L. Shetty worked as a godown-keeper, Siddapur for the period from 29th March 1944 to 18th August 1944. On 17th May 1944, an order was issued, after crediting Rs. 1,107-11-0 for price, to the Siddapur, godown-keeper to issue 36 bags of rice to the Manager, Itagi Fair Price Shop. The Manager of the shop, however, took delivery of the 36 bags of rice from Itagi godown instead of the Siddapur godown. The godown-keeper at Siddapur, however, falsly debited these 36 bags of rice to the Fair Price Shop, Itagi, in his original issue register. An enquiry was made into the shortage of 36 bags noticed at Siddapur and it was found that late Shri T. L. Shetty the then godown-keeper at Siddapur was responsible for the loss of 36 bags of rice in Siddapur godown as he falsely debited the same on 17th May 1944, in the name of the Fair Price Shop, Itagi. Shri T. L. Shetty failed to offer any satisfactory explanation despite opportunities given to him. He died on 21st July 1947. The Collector of Kanara, therefore, under his order No. 4905/363, dated the 15th May 1948 directed that the amount of Rs. 1,107-11-0 being the cost of the 36 bags should be recovered from the legal heirs of late Shri T. L. Shetty and his sureties (1) Shri G. N. Malshet, (2) Shri G. B. Sakhardande and (3) Shri N. D. Shetty, the plaintiff.

by the Collector on 13th July 1948, exonerating the two sureties who had executed a bond on 7th August 1946, as the defalcation in question was committed by the deceased on 17th May 1944. Hence it is not correct to say that the two latter sureties were taken for the due discharge of duties of the deceased as the godown-keeper. Plaintiff continued to be the surety of the deceased by the terms of his bond even after the appointment of the deceased as a godown-keeper. The security bond furnished by the deceased and the plaintiff is referable to Chapter III of the Land Revenue Code. Under section 27 of the Land Revenue Code the surety or sureties of such officers or other persons i.e. any revenue officer or any person employed as such (*vide* sections 25 and 26) shall be liable to be proceeded against jointly and severally in the same manner as his or their principal is liable to be proceeded against in case of any default. These provisions are applicable to the security bond in question. No doubt that the deceased Shri Shetty was occupying the post of a godown-keeper at the date of the defalcation, but the surety bond is worded in general terms so as to cover liabilities arising out of his appointment to any other post such as a godown-keeper. So the order passed by the Collector on 15th May 1948 as modified by his order dated 13th July 1948, directing recovery of the amount from the heir of the deceased and the plaintiff who was surety of the deceased was proper. Under paragraph 3 of section 187 of the Land Revenue Code all sums declared by any contract with the Government to be leviable as arrears of land revenue shall be levied under the provisions of Chapter XI of Land Revenue Code. The District Government Pleader is requested to ascertain by refering to the original bond whether it provides for recovering loss that might be caused to Government as arrears of land revenue, presumably it so provides otherwise the Collector could not have taken action in the matter. It should be urged therefore that under the terms of the security bond the amount was properly recovered under Chapter XI of the Land Revenue Code.

(2) Another contention is that the order, dated 15th May 1948 was passed by the Collector *ex-parte*. In this connection it should be urged that it was not necessary to inform the plaintiff of the enquiry made into the defalcation since he had no *locus standi* in such an enquiry. The plaintiff could come into the picture on or after the defalcation was proved and the question of recovering the loss caused to Government arose. Moreover the plaintiff was heard when he applied on 14th July 1948, for reconsideration of the order and after hearing him the order was reaffirmed.

(3) Another contention of the plaintiff is that the defalcation could not be noticed during the life-time of the late Shri T. L. Shetty due to negligence and delay of the auditing staff otherwise it would have been possible to recover the loss from the deceased. This should be denied. The shortage of 36 bags at Siddapur godown was noticed in 1947 (The District Government Pleader is requested to ascertain the exact date from the Collector). Thereafter an enquiry was made in the normal course and in the normal manner. There was no avoidable delay or negligence

on the part of the auditing staff or enquiry officer. The surety is liable even after the death of the plaintiff according to the bond and even assuming without admitting that there was some delay that could not help the plaintiff.

(4) The last contention of the plaintiff is that the deceased had to his credit an amount of Rs. 1,100 in his general provident fund account; that the said amount was paid to the heirs of the deceased even when this defendant was aware of the misappropriation committed by the deceased. Consequently, due to this alleged omission on the part of this defendant the plaintiff's liability if any had ceased. It should be denied that there was any such omission. Under section 3 (*i*) of the Provident Funds Act, 1925, the amount of general provident fund at the credit of the deceased was not liable to attachment under any decree or order of any civil revenue or criminal Court in respect of any debt or liability by any subscriber or depositor. Therefore it is not an omission the legal consequence of which would be the discharge of the principal debtor within the meaning of section 134 of the Contract Act, so that the plaintiff as surety may be entitled to claim to be discharged. Moreover under section 137 of the Contract Act mere forbearance on the part of the creditor to sue the principal debtor or to enforce any other remedy against him does not, in the absence of any provision in the guarantee to the contrary, discharge the surety. These two sections will have to be read together (*vide* Mahant Singh *v.* U. Bayi, 41, B.L.R. 742).

For all the above reasons it should be urged that the plaintiff's suit fails and should be dismissed with costs.

4. It was, however, found that since the defalcation was committed on 17th March 1944 the first two sureties (1) Shri Malashet and (2) Sakhardande who executed the second security bond on 7th August 1946 could not be held responsible for the loss caused to Government before the date of their bond. The Collector therefore by his order No. 4905/363, dated the 13th July 1948 in partial modification of his aforesaid order dated 15th May 1948, directed that the two sureties should be exhonerated since they could not be held liable for a loss caused to Government prior to the date of the security bond furnished by them and that the liability fixed on the heir of late Shri T. L. Shetty and his surety Shri N. D. Shetty should stand as per previous orders.

5. On 14th July 1948, Shri Shanbhag the pleader of Shri N. D. Shetty, the plaintiff, submitted an application to the Collector pointing out that his client was not bound by the *ex-parte* order passed by the Collector on 15th May 1948 fixing liability for the loss of 36 bags in his client to the extent of the amount covered by the security bond viz., Rs. 500, that the bond was executed on 26th October 1943 and was relatable to the duties of the late Shri T. L. Shetty as Shanbhog and not as godown-keeper. He also pointed out that the provident fund amount of Rs. 1,100 which was to the credit of late Shri T. L. Shetty was paid to his heirs in January 1948, and that by reason of the Government's omission to withhold payment of this amount the remedy of the plaintiff to recover the amount from the heirs of the deceased is impaired. He requested the Collector to withdraw the order. The Collector rejected the application on 14th September 1948.

6. The amount of Rs. 500 covered by the security bond was recovered towards the loss caused by the defalcation committed by late Shri T. L. Shetty from Shri N. D. Shetty. the plaintiff by instalments as shown below :—

(1) Rs. 200 on 7th December 1948.
(2) Rs. 100 on 17th January 1949.
(3) Rs. 150 on 15th February 1949.
(4) Rs. 50 on 8th April 1949.

7. Plaintiff has not given any notice of suit but in paragraph 5 of the plaint he states that he has given one on 14th July 1948. As shown in paragraph 5 above it was an application requesting the Collector to withdraw the order passed on 15th May 1948. The plaintiff filed this suit on 6th December 1951.

8. The plaintiff contends (1) that he cannot be held responsible for the defalcation which though committed in 1944 by late Shri T. L. Shetty could not be noticed till after his death in 1947 due to the delay and negligence made by the auditing staff of the defendants, (2) the provident fund amount of Rs. 1,100 due to the deceased was paid by the defendant to his heirs despite the fact that the heirs of the deceased were liable for the loss caused to the defendant by the deceased. Consequently the plaintiff contends that his liability, if any ceased, when the payment was made to the heirs of the deceased, and (3) plaintiff also appears to contend that since a fresh surety bond was taken from the deceased after the latter was appointed a godown-keeper his (plaintiff's) liability ceased.

9. Plaintiff prays (1) for declaration that he is not responsible for the loss caused to the defendant by misappropriation committed by the deceased godown-keeper, (2) for refund of Rs. 500 recovered from him by instalments of Rs. 200 on 7th December 1948, Rs. 100 on 17th January 1949, Rs. 150 on 15th February 1949 and Rs. 50 on 8th April 1949, together with interest of Rs. 80 at 6 per cent., (3) for future interest and (4) for costs.

---

*Grounds of Defence.*

*Notice.*—Plaintiff has not given a proper notice of suit as required under section 80 of the Code of Civil Procedure. Apparently the plaintiff seems to consider that the application submitted through his pleader on 14th July 1948, requesting the Collector to withdraw the order passed by the Collector on 15th May 1948, was a notice of suit. In that application the plaintiff did not say anything about his intention to file a suit. It was simply an application requesting the Collector to withdraw his order, dated 15th May 1948. The Collector modified that order on 13th July 1948, absolving the other two sureties and fixing the liability as surety on the plaintiff alone and the amount of Rs. 500 was accordingly recovered from the plaintiff as shown in paragraph 6 of the Chronological Statement. The plaintiff's application, dated 14th July 1948 cannot be and was not therefore a notice of suit. Provisions of section 80 are express and mandatory and this suit deserves to be dismissed for want of a proper notice of suit under section 80 of Civil Procedure Code.

2. *Merits.*—The plaintiff's first contention is that he was a surety to late Shri T. L. Shetty on the latter's appointment as Shanbhog and had executed a surety bond on 27th October 1943, but that subsequently the deceased was appointed a godown-keeper and a fresh security bond was taken from him implying thereby that the plaintiff was absolved from any liability of the deceased arising out of his work as a godown-keeper. The contention is not true. No fresh security bond was taken from the deceased after he was appointed a godown-keeper because the surety bond executed by the plaintiff covered the duties attached to the post of Shanbhog or any other post to which the deceased might be subsequently appointed. The bond furnished by the plaintiff thus continued valid for the period from 29th March 1944 to 18th August 1944 when the deceased worked as a godown-keeper and committed defalcation in respect of 36 bags of rice on 10th May 1944. It is true that on his appointment as circle officer in 1946, the deceased furnished a fresh security bond on or about 7th August 1946 (the District Government Pleader is requested to ascertain the date) and Shri G. N. Malshett and Shri G. B. Sakhardande stood as sureties to the deceased. The security bond furnished on 27th October 1943, whereunder the plaintiff stood as a surety was not however cancelled or revoked. It is also true that the Collector by his order No. 4905/363, dated the 15th May 1948 directed recovery of the amount of Rs. 1,107-11-0 involved in the defalcation, from the heirs of the deceased as well as all the three sureties. The order was however modified

Recd. with ఫిక్స్ No. 396 ది. 23-6-53

App/ No 257 1953
K. words 732
Cop cost ₹-13-0
Comp " 0-12-0
pap " 0-2-6
Total ₹-11-0

మూల దాంబియాల్లి ముద్దాయి నాలు 57
ముద్దాయి నాయే
(ఆ. పి. కా. 6.7) కాంబిలాదా ద హిల్లిల్ బళ్ళ పి డి. తోటిమిస్టర్ల
స్టాంప్ నంబరు/
పరిశీక్షి డా. శిక్షెయు/ ) అప్పీల్లాలు కాంబిలాదా ఇల్లి

దిలాణి మురెడలు నంబరు 17 సన్ 1951 ది

గాగిల్లిశ దుగ్గయ్యా శిల్ప, 40, శైవ
బట్టర లుపే సిద్ధాంతుర
అ. శీ: తళదిల్లిపుగారరెరం
చాది

లరుద్ధ
1. లుంబుంది సింగారా
2. కాగడా బిలా రెల్లిగరెబర
ద్వారా
అ. శీ. ఐ. లసి లూంబిసి రెడ్డి
District Govt. Pleader
ప్రతివాదియ

ఫ్రీ. దాఖల తారిలు 6 లింగళు దిసెంబర
సన్ 1951
ఫ్రీ. ఫ్రీల తారిలు 29 లింగళు జనవరి
సన్ 1952
దాలె యాప్తాంది ₹ 80-0-0
లూదియు దాంబె బిల్లనే అదల్ల—
బ్రీల్ల లింగసుతాం లరెణ లిచ్చి ఇలరు తా.
17-6-1944 నిల్లనే ఇరుగి లిల్లిగాం దాండ అంగ
జగే 36 బీల అర్థ బలలుడి లూండదే లభ్యు
ప్రాంతి ఇదే తీతిలూండిదే రు 1107-11-0 లుతసాం
తిడిసిద బిల్లు ఇదే తీతిలూండిరుగు నెదిశిన

ಪ್ರತಿಕ್ರಿಯಾ ನಂಬರ 4905/363 (accounts) ನೇ ನಂಬರ,
ದಲ್ಲಿ ತಾ. 15-5-1948 ನೇದಿನ ಮಾಡಿದ ಹುಕ್ಕಂ ಮಾಡಿ
ಲಿಖಿತ ಸಿದ್ಧ ಮಾಡಿದ್ದರಿಂದಲು ಸಿದ್ಧ ಮಂಜೆನೆಯವನ್ನು
ಅಧಿಕಾರಿಗಳು ತಿಳಿಯುತ್ತಲು ಅನುಕೂಲವಿದ್ದು ಬಿದ್ದಾಗ ಅಜಾಗರತೆ ಮಾಡಿ. ಮಾಡಿನ
ಸಿದರ ತಿಂಬುತಾ ಶಿಟ್ಟಿಂಗು ಹುಂಮಾಲಿಯಲ್ಲಿ ತಿನಬಹುದು.
ದಾದ. ಭದ್ರತೆಯನ್ನು ನಕ್ಕ ತಡಿದಿದ್ದರಿಂದಲು ಸಿದರ
ತಿಂಬುತ್ತ ಶಿಟ್ಟಿಂಗು ಮಾಡಿಸಿದ್ದಾರು. ಆತನ ಮಂಜೆನೆ
ಪ್ರಕಾರ ತೆರತ್ತಿ ಬದ್ದರಿದ್ದ, ಆ ಸಂಜೆ ಪ್ರತಿಮಾಡಿದ
ತಿಳುಮಳಿಕೆಯಿಲ್ಲರುತ್ತ ಪ್ರತಿಮಾಡಿದರು ಅಜಾಗ್ರತೆ
ಮಾಡಿ ರು 1100-0-0 ನ್ನು ಸಿದರ ಮಾಡಿಸಿದ್ದಾರೆನ್ನಿ
ಬಬುಮಾಡಿ ಮಾಡಿ ಮಾಡಿಯು ಭದ್ರತೆಯನ್ನು ನಕ್ಕ
ತಡಿದಿದ್ದರಿಂದಲು ತಾ. 17-5-1944 ನೇದಿನ ತಿಂಬುತಾ
ಲಗಣಿ ಶಿಟ್ಟಿಂಗು ಮಾಡಿದ ಮಂಜೆನೆಯಂತು ಬಾಬ್ತು
ಲೆಸೆಂದು ಹೊಗ ಕೊಡಲಿಕ್ಕೆ ಮಾಡಿಯು ಬಬುಮಾಡಿದ್ದಾ
ನಿಲ್ಲಿಂತ ತರ್ವಾನಿ ಮಾಡಿಂಯಿಂದ ತಾ. 2-12-1948
ನೇದಿನ ರು 200-0-0 ತಾ. 17-1-1949 ನೇದಿನ ರು 100-0-0,
15-2-49 ನೇದಿನ ರು 50-0-0 ಮ. 8-4-1949 ನೇದಿನ ರು 1500-0
ಹೀಗೆ ಒಂತಾ ಮಾಡಿಯಿಂದ ವಸೂಲಾದ ರು 500/=
ಗಳನ್ನು ವಸೂಲು ಮಾಡಿದ ಮಾರಿಲ್ಲು ಗಳಿಂದ ಈ
ಮಾರಿನ ದರಸ್ತಾಲ ದಂಸಿಲ್ಲಾದಾ ರು 6/- ರಂತೆ
ಹೊಗಾಲಿದ ಬಡ್ಡಿ ರು 80-0-0 ಕೊಡಾ ರು 580/-
ಗಳನ್ನು ಈದಾಂತಿಯು ಲಿಕ್ಕಿನ್ನು ಭಲಿಲಿಕ್ಕಾದ ಬಡ್ಡಿ
ಯನ್ನು ಮಾಡಿನಿ ಪ್ರತಿಮಾಡಿಯಿಂದ ವಸೂಲು ಕೊಡಿಸಿ
ಬಿಲ್ಲರು ಈ ಬಿಲ್ಲಿ ದಾವಾ ಹಾರಾ ರು ಮೊತ್ತ 580-0-0

ಈ ದಾಖಲೆಯು ಶ್ರೀ. ವಿ.ಬಿ. ಬಾಗ್ಲಾನಿ. ಸಿವಿಲ್ ಜಡ್ಜ್. ಸಿ.ಪಿ.
ರವರ ಕೋರ್ಟ್ ರೆಗ್ಯುಲರ್ ನಿರಾತಿಗೆ ಇವರ ಮುಂದೆ ವಾದಿ
ದಿಂದ ವಕೀಲರಾದ ಶ್ರೀ. ಹಳದಲ್ ಮೂಲರವರ ಇವರು
ಮುಲ್ಕು ಪ್ರತಿವಾದಿಯು ವಕೀಲರಾದ ಶ್ರೀ. ಬಿ. ಎಸ್.
ಮೂಲಿನ ರವರ ಇವರ ನೇತೃತ್ವದಲ್ಲಿ ಬಂದವರಿಂದ
ತೀರ್ಮಾನವು ನಾಮೆ ಮಾಡಿದೆ ಸ್ಥಳಾರ್ಥಮಾಡಿಸುವರಿಲ್ಲ
ನಿಂದ

ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ರೂಲಿನ ಸಿಕ್ಷಗೊಂದಂ
ವ್ಯವಹಾರ ರಂಗೋಲ್ಸ್ ಮತ್ತು ಕಾಯ್ದೆಯಲ್ಲಿರುವ Adequate ಗೊಳಪಡಿಸಿ
ಇಲ್ಲದ ಕಾರಣ ಮಾದಿಯು ದಾವೆಯು ತಿರಸ್ಕರಿಸಿ
ಮಾದಿಯು ಪ್ರತಿವಾದಿಯಿದೆ ಈ ನಾಲಾದ 1/4 ಭಾಗ
ರೂ 7-4-0 ರೂಪಾಯಿ ಆಂದ ಖರ್ಚಿಗೆ ಮಾಫಿ ಪಡಿಸಿ
ತೀರ್ಪಿದ್ದಾರೆ

ವಿಚ್ಛೇದ ಮಾದಿಯು

| ಮಾದಿಯ ಪರ ವಕೀಲರು: | ರೂ | ಆ | ಪೈ |
|---|---|---|---|
| 1. ಅಸಲು ಪಿರ್ಯಾದಿ ಸ್ಟಾಂಪು ಬಿ.1 | 5 | 6 | 0 |
| 2. ಮುಖತ್ತಾರ್ ನಾಮೆಯ ಸಿದರ | | | |
| 3. ದಾಖಲಾದ ತಾಗಾದ (ನಿರಾಸ್ತಿ) ಗಳನ್ನು ಸಿದರ ಬಿಟ್ಟು ಮುಂದಿನ ಪ್ರಾಸಿನ ವಿಚಾರಣೆ ಕೂಲ್ಪದ್ದು | | 10 | 0 |
| 4 ಸಾಕ್ಷಿದಾರರ ಹಾಜರಿಪಡಿಸಿ | | | |
| 5 ದಾವೆಯ ರಚನೆಯ ಖರ್ಚಿನ ಫೀಲ್ | | 2 | 0 |
| 6. ಪ್ರಾಸಿಸ್ಸುಗಳ ಬಜಾವಣೆ ಬಿ.1 | | 3 | 12 0 |
| 7. ತಲಿಮಿಕರಣ ಫೀಲ್ | ... | | |
| 8. ಭೂಕಾಂತರದ ಫೀಲ್ | ... | | |
| 9. ನರಲು ಮಾಡುವ ಬಗ್ಗೆ ಫೀಲ್ | ... | | |
| 10. ತಕರಾರುಗಳ ಬಗ್ಗೆ ಕೂಲ್ಪದ್ದು | ... | | |

ಪ್ರತಿವಾದಿಯ ಪರ ವಕೀಲರು

| | ರೂ | ಆ | ಪೈ |
|---|---|---|---|
| 1. ವಕ್ಕಾಲತ್ತಿನ ಪ್ರಕಾರ ಮಾಡಿದ ಮಾದಿಯ ಬಗ್ಗೆ ಸ್ಟಾಂಪು | | | |
| 2 ಮುಖತ್ತಾರ್ ನಾಮೆಯ ಸಿದರ | | | |
| 3. ದಾಖಲಾದ ತಾಗಾದ (ನಿರಾಸ್ತಿ) ಗಳನ್ನು ಸಿದರ ಬಿಟ್ಟು ಮುಂದಿನ ಪ್ರಾಸಿನ ವಿಚಾರಣೆ ಕೂಲ್ಪದ್ದು | | | |
| 4 ಸಾಕ್ಷಿದಾರರ ಹಾಜರಿಪಡಿಸಿ | | | |
| 5. ಪ್ರಾಸಿಸ್ಸುಗಳ ಬಜಾವಣೆ ಬಿ.1 | | | |
| 6. ಭೂಕಾಂತರದ ಫೀಲ್ | ... | | |
| 7. ತಲಿಮಿಕರಣ ಫೀಲ್ | ... | | |
| 8. ಭೂಕಾಂತರದ ಫೀಲ್ | ... | | |
| 9. ನರಲು ಮಾಡುವ ಬಗ್ಗೆ ಫೀಲ್ | ... | | |
| 10. ತಕರಾರುಗಳ ಬಗ್ಗೆ ಕೂಲ್ಪದ್ದು | | | |

11. ಬಾರಸಿದಾರನನ್ನು ಬದಲಾಯಿಸುವ ಬಗ್ಗೆ ಮಾಡಿರುವ ಅರ್ಜಿಯನ್ನು ಮೇಲಿನ ಸ್ಟೇಂಪು

| | | | |
|---|---|---|---|
| ಒಟ್ಟು ... | 93 | 6 | 0 |
| ನಾಲ್ಕುಂಬೊಂಗಾದ ಖಚ್ಚಿಗೆ ಅನಲಜಿನಿಯ ಮೇಲಿನ ಸ್ಟ್ಯಾಂಡಿಂಗ ಸ್ಟೇಂಪಿನ ಮೇಲಿನ ಮೊಸಿಗೆನ್ಸುಗಳ ಮೇಲಿನ ... | 3 | 12 | 0 |
| ದಾಖಲಾದ ಕಾಗದ (ನಿಶಾನಿ) ಗಳ ಮೇಲಿನ (ಮುಂದೆ ನೋಡಿರಿ) ... | | | |
| ಬಾಕಿ ... | 89 | 10 | 0 |

| | | | |
|---|---|---|---|
| ಒಟ್ಟು ... | 31 | 8 | 0 |
| ನಾಲ್ಕುಂಬೆಂಗಾದ ಖಚ್ಚಿಗೆ ಬರುವ ದಾಖಲಿನ ಮೇಲಿನ ಸ್ಟ್ಯಾಂಡಿಂಗ ಸ್ಟೇಂಪಿನ ಮೇಲಿನ ಲೆಟ್ರುಬಿಸ್ಸುಗಳ ಮೇಲಿನ ದಾಖಲಾದ ಕಾಗದ (ನಿಶಾನಿ) ಗಳ ಮೇಲಿನ (ಮುಂದೆ ನೋಡಿರಿ) ... | 2 | 8 | 0 |
| ಬಾಕಿ ... | 29 | 0 | 0 |

ಈ ಕೋರ್ಟನ್ನು ಸನ್ 1953 ನೇ ಇಸವಿಯ ಏಪ್ರಿಲ್ ತಿಂಗಳ 17 ನೇ ತಾರೀಖಿನಲ್ಲಿ ನಮ್ಮ ಸಹಿ ಮಾಡಿ ಮುದ್ರೆ ಹೊಡ್ಡಿನ ಮೊಹರು ಮಾಡಿ ಕೊಡಲಾಗಿದೆ.

ಬಿಟ್ಟ

Sd. M.V. Raykar.
ತಾರಕಾನ
ಮಾದಿಗ ಪ್ಲೀಡರ
ಪಟೇಲಿಮಾದಿಗ ಪ್ಲೀಡರ

Sd. A.B. Vagyani
ಸಿಟ್ಟಿಂಗ್ ಜಡ್ಜ್. ಸಿ.ಕ್ಲಾ.
ತಾಲೂಕಾ
29-4-1953

(ಕೋರ್ಟ ಮೊಹರು ಆಯಿತು.)

ಈ ಮೊದಲಿನಂತೆಯೇ ಪಿರ್ಯಾದಿಯನ್ನು ಪಿರ್ಯಾದಿಯನ್ನಾಗಿ ಮಾಡಿಕೊಳ್ಳುವ ಬಗ್ಗೆ ಕೊಡಿಸುವವರಲ್ಲಿ ಬಾಕಿಯವರು ಕಾಲ್ಪನಿಕವಾಗಿ ತಕರಾರು ಮಾಡಿದ ಎಲ್ಲಾ ಪ್ರತಿವಾದಿಗಳನ್ನು ಅವರು (ತಿರಗಾ) ತೆಗೆದುಹಾಕುವಂತೆ ಕೋರಿದ್ದಾರೆ ಈ ದಸ್ತೈವಜುಗಳನ್ನು. ಅದಿಲ್ಲದೆ ಮಾಡಿದ್ದಾರೆಯೇ ಅಪೀಲು ನಿರಾಕರಿಸಿದ ಮೇಲಿನ ನಾಶವಾಗುವುದಕ್ಕೆ ಅವಕಾಶವಾಗುವುದು (ಅಂದರೆ ಅಲ್ಲಾ ನಾಶವಾಗುವುದಕ್ಕೆ ಬಿಡಬೇಕು.)

ಬಾದಿಯ ತಡೆಯಿಂದ

| | ರೂ. | ಆ. | ಪೈ. |
|---|---|---|---|
| ಬಂಜೆಗಾಂದ ಖರ್ಚು | | | |
| ಹಾಳುಬಿದ್ದ ಕಾದ (ನಿಖಾವಿ) | | | |
| ನಕ್ಷೆ ಸಂಖ್ಯೆ -28 | 1 | 4 | 0 |
| 29 | 0 | 10 | 0 |
| | 1 | 14 | 0 |

ಬೆಟ್ಟದಿಂದ ತಡೆಯಿಂದ

| | ರೂ. | ಆ. | ಪೈ. |
|---|---|---|---|
| ಬಂಜೆಗಾಂದ ಖರ್ಚು | | | |
| ಹಾಳುಬಿದ್ದ ಕಾದ (ನಿಖಾವಿ) | | | |
| ನಕ್ಷೆ ಸಂಖ್ಯೆ - | | | |

ಸಾಲುಬಂಜೆಗಾಂದ ಖರ್ಚು

ಹಾಳುಬಿದ್ದ ಕಾದ (ನಿಖಾವಿ)

| | | | |
|---|---|---|---|
| ನಕ್ಷೆ ಸಂಖ್ಯೆ - | 5 | 0 | 10 0 |
| | 6 | 0 | 10 0 |
| | 7 | 0 | 10 0 |
| | 16 | 0 | 10 0 |
| | 17 | 0 | 10 0 |
| | 26 | 0 | 10 0 |

ಸಾಲುಬಂಜೆಗಾಂದ ಖರ್ಚು

ಹಾಳುಬಿದ್ದ ಕಾದ (ನಿಖಾವಿ)

| | | | |
|---|---|---|---|
| ನಕ್ಷೆ ಸಂಖ್ಯೆ - | 11 | 0 | 10 0 |
| | 12 | 0 | 10 0 |
| | 13 | 0 | 10 0 |
| | 14 | 0 | 10 0 |

ಬಲ್ಲು ... 3-12-0

5-16-0

ಬಲ್ಲು ... 2-8-0

2-8-0

copied by :- G.R. Gaonkar. True copy

compared by

original

copy :- G.R. Gaonkar

Asstt. 25/5/53

Clerk of the Court.

ಅಭಿಲೇಖ ಬಂದ ತಾರೀಖಿನ ತಕರಿಮುಗಾರು ಮೇ 1953

ನಕ್ಷೆ ತಯಾರಾದ ತಾರೀಖಿನ ಇತ್ಯರ್ಥದ ಮೇ 1953

ನಕ್ಷೆ ರೆಜಿಸ್ಟ್ರಿ ತಾರೀಖಿನ ಇತ್ಯರ್ಥದ ಜೂನ 1954

65

Received on- 6th December 1951.

Registered on- 29th January 1952.

Decided on-

Duration-

W.1180
Cop. 3-8-0
Comp 0-12-0
Paper 0-1-0
4-5-0

In the Court of the Civil Judge, Senior Division
At Karwar. Exhibit No.22.

Civil Suit No. 17 of 1952.

Pleader.
Shri. Haldipur.

Nagesh Duggayya Shet, aged 40, Rayot at Chappeshwar in Siddapur. — Plaintiff

against

Shri. B.S.Mavinkurve, Government pleader.

The State of Bombay.
2. The Collector of Kanara. — Defendants.

Claim-.Rs.580/-

The Plaintiff sues to recover the suit sum of Rs.580/- with costs alleging that Plaintiff is not obliged to make good the loss claimed by Timappa for whom he stood surety.

| | | |
|---|---|---|
| Principal | | 580-0-0 |
| Interest of per cent from the | | |
| | Total | 580-0-0 |
| Deduct- | | |
| Barred by Law of Limitation | | |
| Already received.. Principal | | |
| Interest | | |
| Remitted | | |
| | Total.. | |
| | Balance still due Rs. | 580-0-0. |

with costs of the suit and future interest from the Defendants

The Plaintiff's suit is to recover the suit sum of Rs.580/- with costs alleging that one Timmappa of Bhatkal was appointed as Shanbhog of the village Sannankop in Siddapur taluka; that Plaintiff stood surety on 17th October 1943 against the loss to be caused by the Timmappa to the Defendant that lateron Timmappa was appointed as Godown-keeper at Siddapur; that Plaintiff did not stood surety for proper discharge of duties by Timmappa as Godown-keeper; that the

D.S.P. of Karwar found defalcation of 35 bags of rice by Timmappa in Siddapur Godown in 1948 and then the Defendant discharged the services of Timmappa; that lateron on 15th May 1948 the Defendant no.2 passed order, that is Defendant's officer passed order on 15th May 1948 to enforce the security bond and without informing the Plaintiff; that Plaintiff was not a security for Timmappa as a Godown-keeper; that Timmappa died and so no more proceedings were continued against Timmappa; that really it was a duty of the Defendants to enquire whether Timmappa has discharged his duties properly as Godown-keeper and Manager of Itgi fair price shop and then it would have been possible for the Plaintiff to recover his own dues from Timmappa rightfully; that in any case Plaintiff would not be liable to make good the loss of 36 bags of rice; that a sum of Rs.1100/- were lying with the Defendant as the Provident Fund amount of Timmappa with the Defendant; that the said amount has been refunded to the heirs of Timmappa without Plaintiff's knowledge and now it is not possible for the Plaintiff to recover his amount from the heirs. So, in this way the Plaintiff's remedies are impared with the result that Plaintiff's security bond stands discharged; that the Defendants have recovered in all Rs.500/- from the Plaintiff from 7th December 1948 to 8th April 1949 and hence the Plaintiff's suit to recover the amount with interest; that the cause of action for the suit arose on 7th December 1948, 17th January 1949 and 8th April 1949. The Defendants have put in their contentions at exhibit no.15 and the only question to be enquired is whether the notice given by the Plaintiff under Section 80 of the Civil Procedure Code is proper and for that the Defendants contend that the letter addressed by the Plaintiff dated 14th July 1948 is not a notice at all and it seems to be a letter addressed by the Plaintiff's pleader to Defendant no.2 to say that the *order dated 15th May 1948 is illegal and it should be withdrawn.

*o.p.3.

2. The issues framed in the suit for all the matter are at exhibit no.19 and the following is to be heard as preliminary issue.

I s s u e s.

1. Whether the Plaintiff proves that legal and valid notice has been given by him to both the Defendants as required by Section 80 of the Civil Procedure Code ?

69

Findings.

Notice is bad.

Reasons.

3. It will be seen from the so called notice given by the Plaintiff exhibit no.23 that it is addressed by the Plaintiff's pleader to Collector of Kanara on 14th July 1948 from Kumta. Now in the first place it is disputed that this notice is not given to both the Defendants. But I think, this objection is not correct. Section 80 will show that notice to the Provincial state can be given to the Collector of the District. So, it will be a good notice to both the Defendants, though, the notice does not state in title that it is a notice to Government of Bombay and also to the Collector of Kanara. But the question of adequacy of notice is to be considered in somewhat liberal sense. It will be seen from the ruling in 53 Bombay Law Reporter page 229 (Lady Dinbai Vs. Dominion of India) that the object of notice under Section 80 is to give intimation to Government of the grievance of the subject and to give opportunity to redress it. That the expression cause of action in section 80 must be construed in liberal way in favour of the subject and so long as proper notice is given as to the nature of the suit and the facts on which the Plaintiffs rely for obtaining the relief, such notice should be taken as proper. So, from this point of view the notice will have to be liberally taken. But the Defendants further contend that exhibit no.23 does not say that the Plaintiff was going to file a suit. Well, I think following the rule of liberal interpretation, exhibit no.23 can work as *notice of suit also. So, I hold that notice is given to both the Defendants and it is notice about the suit. But for another reason this notice will be bad. It will be seen from the notice that Plaintiff has not asked any refund of the amount recovered from him and he has asked only for the cancellation of the order for refund. It seems that by the date of notice no recovery was made from the Plaintiff as the first recovery is on 7th December 1948. However, the Plaintiff's suit is now

*o.p.4.

to recover the amounts back and these amounts are recovered after the Plaintiff's notice. There will be different causes of action for the claim of refund of these amounts and these causes of action have arisen after the notice. So, that way the Plaintiff's notice will be bad. Now it will be seen from the ruling in 51 Bombay Law Reporter, page 635 (Government of Bombay Vs. Vadiya) that so far parties to the suit are concerned, the notice must be strictly interpreted. That is if the suit is by 4 persons and if only 2 give notice, the suit is bad. So, also the ruling in 1948 I.L.R. Madras, page 214 (Valian Chettiyar Vs. Government of Madras) that suit by two persons on giving notice by one of them is bad. So, these rulings will show that Plaintiff's notice must be at least for all the causes of action to be included in the suit to follow. It will be seen from the plaint and the notice that all recoveries are made after the notice and no refund was claimed by the Plaintiff in his notice. But in the suit the main relief is for refund of Rs.500/- with interest it is true that the Plaintiff's suit is for declaration with consequantial relief like declaration for holding the order to cancell security is bad and consequantial relief like refund. So it can be said that Plaintiff's notice will be good for the declaration at least. But the learned pleader for the Plaintiff did not suggest like that also. And on consideration of further facts, I think that such a suggestion even if it were to be made will not have much force in law. It is clear that the relief of declaration and oonsequential relief are so mixed together that they cannot be separated with any practical value. Suppose that Plaintiff gives up his claim for refund then his claim for refund then his claim for declaration will also will fail as whenever consequential relief must be claimed along with declaration and if the former is not claimed the latter cannot be given. So, it will follow that the whole suit of the Plaintiff is practically beyond the exact form of the Plaintiff's notice, though it is liberally construed. For these reasons, I hold that the Plaintiff's notice under Section 80 is bad. Plaintiff's suit fail.

*o.p.5.

## Order.

Plaintiff's suit is dismissed for want of proper and adequate

69

notice under Section 80 of the Civil Procedure Code. Plaintiff to pay 1/4th of the costs of the suit to the Defendants and bear his own.

17th April 1953. Sd.A.B.Vagyani,
Civil Judge, Senior Division,
Karwar.
17/4/1953.

Copied by
Compared by
Original
Copy

True Copy

CIVIL JUDGE'S COURT S.D.

Karwar 25/5/53
Clerk of the Court.

Application received on- Thirteenth May 1953.
(delay as the sectioner was on leave)
Copy ready on- - Twenty-fifth May 1953.
Copy delivered on- - Twenty-second June 1953.

C.O.C.

Suits:

Kanara.
For declaration that he is not responsible to make good the loss caused to the defendant by defalcation of 36 bags of rice made by late Shri T.L. Shetty for whom the plaintiff had stood as a surety in 1943, and for refund of the amount of Rs.500 recovered from him with interest etc.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 1953/E — 8 Oct.
Bombay Castle ( Bombay No.1) 1st ~~Sept.~~, 1953.

Read Government Resolution, Legal Department No. 2419/E , dated the 5th February 1953.

Letter from the District Government Pleader, Karwar No. 396, dated the 23rd June 1953, stating that

| | | | |
|---|---|---|---|
| In the Court of the Civil Judge (Senior Division), Karwar. | | | the suit noted in the margin was decided by the |
| Civil Suit No. 17 of 1952. | | | |
| Nagesh Duggayya Shet | ... | Plaintiff. | |
| vs. | | | |
| The State of Bombay. | ... | Defendant. | |

Civil Judge (Senior Division) Karwar on the 17th April 1953, when the following order was passed:-

" Plaintiff's suit is dismissed for want of proper and adequate notice under section 80 of the Civil Procedure code. Plaintiff to pay ½ of the costs of the suit to the Defendants and bear his own. "

Letter from the District Government Pleader, Karwar No. 396, dated the 23rd June 1953, forwarding uncertified copies of the judgment and decree.

Resolution:- The result of the suit is recorded.

By order and in the name of the Governor of Bombay,

(R.T. Katarki)
Deputy Secretary to Government.

To

The Civil Supplies Department,
The Revenue Department,
The Collector of Kanara,
The District Government Pleader, Kanara, Karwar.

VMS.
24/9.

72

Fete in S. Kanara 1/53

Kw
3/10
Sirdal NB 3/X/53

S. Kanara

5